

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH: JODHPUR.

O.A. No. 253/1996

Date of Order: 29.5.1998

1. Poonam Ram s/o Shri Uda Ram, r/o Hanuman Mandir Railway Colony, Churu at present employed on the post of C.P.C. Cleaner under Loco Foreman, Churu, Northern Railway.
2. Ayub Khan s/o Shri Deena Khan, r/o Railway Colony Rattangarh, Churu at present employed on the post of C.P.C. Khallasi under Loco Foreman, Churu, Northern Railway.

... Applicants

VERSUS

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Personnel Officer, Northern Railway, Bikaner Division, Bikaner.

... Respondents

Mr. J.K. Kaushik, Counsel for the applicants.
 Mr. Ravi Bhansali, Counsel for the respondents.

CORAM:

Hon'ble Mr. A.K. Misra, Judicial Member

Hon'ble Mr. Gopal Singh, Administrative Member

O R D E RPer Hon'ble Mr. Gopal Singh

Applicants, Poonam Ram and Ayub Khan, have filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for

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quashing the impugned order dated 26.7.1996/30.7.1996 (Annex. A/1) and for issuing a direction to the respondents to consider their candidature for appointment to the post of Pointsman.

2. The applicants' case is that they were initially engaged as Casual Group 'D' on 5.7.1980 and 6.7.1980 and were granted graded scale w.e.f. 17.5.1986 and 1988 respectively. That they were further engaged on the post of Loco Cleaner and Fitter Khalasi w.e.f. 1.12.1991 and 10.9.1991 respectively under the Loco Foreman, Churu. Both the applicants were subjected to screening vide respondents order dated 11.3.1994 and the result of that screening is not known to the applicants. Both the applicants have applied for empanelling/selection for the post of Pointsman in response to respondents letter dated 15.1.1996 (Annex. A/4). That both the applicants were included in the eligibility list for selection to the post of Pointsman and were called for viva voce test vide respondents letter dated 17.4.1996 (Annex. A/6).

In this letter of 17.4.1996, it was mentioned that the casual labourers in CPC scale or substitute should not be spared for viva voce. However, on representation from the applicants they were relieved to appear in the viva voce test vide respondents letter dated 17.5.1996. Both of them have been declared passed in the suitability test for the post of Pointsman vide respondents letter dated 6.6.1996 (Annex. A/9). Both the applicants were also deputed for one month training commencing from 22.7.1996 vide respondents Control Message dated 30.7.1996, the earlier message dated 22.7.1996 was cancelled and the applicants were sought to be recalled from the training. It is the contention of the applicants that one Shri Nizamudin was also deputed for this training though his name was not in the list of successful candidates and he has been allowed to continue with the training. Being aggrieved by the action of the respondents in cancelling the training of applicants, they have approached this Tribunal and on hearing the application for admission, the operation of Control Message dated 30th July, 1996 was stayed by this Tribunal and the applicants were allowed to complete the ongoing training.

3. Notices were issued to the respondents and they have filed the reply. In their reply, the respondents have stated that both the applicants had appeared for screening on 21.3.1994 under order dated 11.3.1994 and only the second applicant i.e., Ayub Khan, was found suitable for Class IV category of Traffic/Commercial/Electrical and

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other departments vide department's letter dated 16.12.1994. That it was clearly indicated in the said letter dated 16.12.1994 that the candidates who have been placed on the said panel of regular Class-IV services, there is no guarantee for appointment. Further, the post will only be given according to the availability of the vacancies. The respondents have also stated that consequent upon his being found suitable for Class-IV category, the second applicant, namely Ayub Khan, was offered the post of Box Boy in Loco Department vide letter dated 25.6.1996, but the applicant has not accepted the said order till date. It is also mentioned by the respondents that the applicant No. 1, namely Poonam Ram, did not indicate anything about his working as CPC in his application and the subordinate incharge of the applicant i.e., Loco Foreman, Churu recorded the certificate on the original application of the applicant that the employee concerned is holding a regular post. Based on this certificate, the applicant was sent for training vide Control Message dated 22.7.1996. However, the certificate was not found correct as per the records of the respondents and, therefore, the applicant was recalled from training. It has also been averred by the respondents that the applicants although were not even eligible to apply to the post of Pointsman-B, somehow managed to get medical examination in A-2. The respondents have also pointed out that no doubt the applicant's name appeared in the list dated 17.4.1996 by which the staff was called for the post of Pointsman. However, in the aforesaid letter the subordinate incharge were strictly instructed that the employees working as CPC/Casual Labourer/Substitute should not be spared for viva voce. Further, it was wrong on the part of the subordinate incharge to spare the applicants for viva voce vide his letter dated 7.5.1996. In this letter also nothing was mentioned about the status of the applicant/s as to whether they are working as Casual Labourer/CPC/Substitute. As regards the case of the Nizamudin, it has been stated by the respondents that the Nizamudin had passed the screening test for Group 'D' category of Traffic/Commercial department vide respondents letter dated 4.1.1988, whereas the applicant No. 2 i.e., Ayub Khan, has been declared fit for Group 'D' category vide respondents letter dated 16.12.1994 only and as such the case of the Nizamudin is not parallel or identical to the case of the applicants. The respondents have also stated that the case of Nizamudin had been under consideration and he was appointed as Pointsman-B in terms of the decision taken in the PNM meeting held on 16/17.11.1995.

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4. We have heard the learned counsel for both the parties and perused the records of the case.

5. It would be seen from the facts narrated above that both the applicants were not eligible for consideration for the post of Pointsman-B. As seen from the letter of the respondents calling the candidates for viva voce for the post of Pointsman-B, it was clearly mentioned that officials working as Casual Labour/CPC/Substitute should not be relieved for the viva voce and both the applicants were working as CPC Casual Labourers. It has also been brought out by the respondents that the case of Nizamudin stands on a different footing. Shri Nizamudin had qualified in the screening for Group 'D' in January, 1998 whereas the applicant No. 2 i.e., Shri Ayub Khan, had passed the same in the year 1994. Moreover, the persons who were on the panel of January, 1998, alongwith Nizamudin were already appointed as Pointsman-B vide respondents letter dated 3rd June, 1993. Since the Nizamudin's case was under consideration for quite sometime, his appointment to the post of Pointsman-B was delayed. Thus, we find that the applicant No. 1, i.e., Poonam Ram, has no case as he has not been declared pass in the screening test for Group 'D' held on 21.3.1994. The applicant No.2 i.e., Ayub Khan, was also not eligible for being called for viva voce for the post of Pointsman B in terms of respondents letter dated 17.4.1996 and his case cannot be compared with that of Shri Nizamudin. Thus, we find that the application has no merit and deserves to be dismissed.

6. The O.A. is accordingly dismissed with no order as to costs.

Gopal Singh
(Gopal Singh)

Administrative Member

A.K. Misra
(A.K. Misra)
Judicial Member

Aviator/